



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding on the Tenant. The Proof of Service document declares that on September 29, 2010 at 11:24 a.m., the Landlord's agent served the Notice of Direct Request Proceeding on the Tenant by registered mail to the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence. Based on the written submissions of the Landlord, I find that the Tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding upon the Tenant;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenant;
- A copy of a residential tenancy agreement which was signed by the parties on February 1, 2009, indicating a monthly rent of \$1,000.00 due on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 3, 2010, with a stated effective vacancy date of September 13, 2010, for \$1,032.00 in unpaid rent that was due on September 1, 2010; and

- A copy of a Notice of Rent Increase issued February 1, 2009, indicating a rent increase in the amount of \$32.00 effective July 1, 2010.

The Landlord's Application for Dispute Resolution indicates that the Tenant owes rent in the amount of \$1,032.00 for the month of September, 2010.

The Landlord's documentary evidence indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the Notice on the Tenant's door at the rental unit on September 3, 2010 at 3:00 p.m. The Proof of Service document was signed by a Witness.

The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

It is important to note that the Notice to End Tenancy and the Notice of Rent Increase both misspelled the Tenant's last name, by adding an extra "t". The Landlord corrected its Application to reflect the correct spelling of the Tenant's name. I accept that both Notices were issued to the Tenant and that the spelling error does not invalidate either Notice. The Tenant paid the rent increase for the months of July and August, 2010, without disputing the Notice.

I have reviewed all documentary evidence and accept that Notice to End Tenancy was posted to the Tenant's door on September 3, 2010. Service in the manner is deemed to be effected 3 days after posting the Notice.

I accept the evidence before me that the Tenant failed to pay the rent owed within the 5 days granted under Section 46 (4) of the Act.

Based on the foregoing, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on September 16, 2010. I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$1,032.00.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **two days after service of the Order** upon the Tenant. The Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$1,032.00**. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 15, 2010.
